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Leslie T. Henry

Message:

Re: Appl. No. 09/954,764, filed September 18, 2001

Number of Pages: (including cover page)

26

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REQUEST For CONTINUED EXAMINATION (RCE) TRANSMITTAL Address to: MAIL STOP RCE COMMISSIONER FOR PATENTS P.O. BOX 1450 ALEXANDRIA, VA 22313-1450 (Revised 09/2003)	Application Number 09/954,764
	Filing Date: September 18, 2001
	First Named Inventor: de Boer
	Art Unit: 1644
	Examiner Name: Phillip Gambel
	Confirmation No.: 8879
	Attorney Docket No. 925.302
This is a request for <u>Continued Examination (RCE)</u> under 37 C.F.R. § 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application.	

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1. Submission required under 37 C.F.R. § 1.114

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on
- ii. ☐ Other
- b. ☒ Enclosed
- i. ☐ Amendment/Reply
- ii. ☒ Affidavits(s)/Declarations(s):
- (a) Copy of 132 Declaration by inventor Mark de Boer, as filed in priority document U.S. Application No. 08/070,158, now U.S. Patent No. 5,677,165 (3 pages)
- (b) Copy of Declaration by Paul B. Saveriede regarding biological deposits and accompanying contracts with ATCC outlining terms of agreement for maintenance and public availability of biological deposits, as filed in priority document U.S. Application No. 08/070,158, now U.S. Patent No. 5,677,165 (4 pages)
- iii. ☐ Information Disclosure Statement (IDS)

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 Filed: September 18, 2001
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iv. ☒ Other:

- (a) Third party observations lodged in corresponding European Patent Application No. 99104709.3, which observations include a copy of the reference listed as cite no. C9 on the PTO Form 1449 accompanying the Information Disclosure Statement filed March 19, 2002, in the above-identified application (14 pages)
- (b) Communication regarding the submissions filed concurrently herewith (2 pages)

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of ___ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)
- b. ☐ Other

3. Fees The RCE fee under 37 C.F.R. § 1.17(e) is **required** by 37 C.F.R. § 1.114 when the RCE is filed.

- a. The Director is hereby authorized to charge any fee deficiencies, or credit any overpayments to Deposit Account No. 16-0605.
 - i. ☒ RCE fee required under 37 C.F.R. § 1.17(e)
 (\$770.00 large entity; \$385.00 small entity)
 - ii. ☐ Extension of Time Fee (37 C.F. R. §§ 1.136 and 1.17)
 - iii. ☐ Other
- b. ☐ Check in the amount of \$___ enclosed

Respectfully submitted,

Leslie T. Henry

Leslie T. Henry
 Registration No. 45,714

<p>Customer No. 00826 ALSTON & BIRD LLP Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Raleigh Office (919) 862-2200 Fax Raleigh Office (919) 862-2260</p>	<p>CERTIFICATION OF FACSIMILE TRANSMISSION</p> <p>I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office at Fax No. (703) 872-9306 on the date shown below.</p> <p><i>Lynnda Jo Pixley</i> <i>July 29, 2004</i> Lynnda Jo Pixley Date</p>
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Attorney's Docket No. 925.302

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re: de Boer
Appl. No.: 09/954,764
Filed: September 18, 2001
For: METHOD FOR TREATING AN IgE-MEDIATED DISEASE IN A PATIENT
USING ANTI-CD40 MONOCLONAL ANTIBODIES

Confirmation No.: 8879

JUL 29 2004

Group No.: 1644

Examiner: Phillip Gambel

July 29, 2004

MAIL STOP RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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COMMUNICATION

Applicants file concurrently herewith a Request for Continued Examination of the above-referenced application under 37 C.F.R. §1.114. Applicants have received notice of an April 20, 2004 Communication from the European Patent Office regarding third party observations that were lodged in a European patent application that is related to the above-identified application. The observations are based on a prior art reference, de Boer *et al.* (1992) *Journal of Immunological Methods* 152:15-23.

The de Boer *et al.* (1992) reference was timely cited by Applicants in the above-identified application as item C9 on the PTO Form 1449 accompanying the Information Disclosure Statement filed March 19, 2002. The Examiner has already considered this reference, as evidenced by the initialed copy of this PTO Form 1449 included with the Office Action mailed September 30, 2003.

This RCE is submitted in order to have these third party observations made officially of record in this application for the sake of full disclosure. The Examiner is respectfully requested to consider these third party observations in light of the other documents submitted concurrently herewith. These documents include the following: (1) a copy of the 132 Declaration by inventor

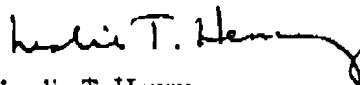
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In re: de Boer
 Appl. No.: 09/954,764
 Filed: September 18, 2001
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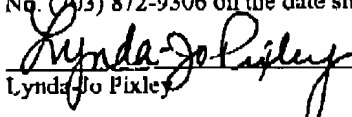
Mark de Boer that was filed in priority document U.S. Application No. 08/070,158, now U.S. Patent No. 5,677,165, in response to the Examiner's rejection of the claims in that priority document in view of this same de Boer *et al.* (1992) reference; and (2) a copy of the Declaration by Paul B. Saveriede regarding biological deposits and the accompanying contracts with ATCC outlining terms of agreement for maintenance and public availability of biological deposits, which were also filed in priority document U.S. Application No. 08/070,158. Although the entire contents of the priority document were incorporate herein by reference, Applicants submit paper copies of these two documents so that the physical contents of the above-identified application are complete when the Examiner considers these third party observations.

It is not believed that extensions of time or fees are required beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Leslie T. Henry
 Registration No. 45,714

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